

HOUSE BILL No. 1240

DIGEST OF INTRODUCED BILL

Citations Affected: IC 12-7-2; IC 12-31.

Synopsis: Restrictions on public benefits to illegal aliens. Prohibits a state agency or political subdivision from providing federal, state, or local public benefits to a person who is not a: (1) United States citizen; or (2) qualified alien under the federal Immigration and Nationality Act and lawfully present in the United States. Requires that after June 30, 2009, a state agency or a political subdivision must verify the lawful presence of each individual in the United States who: (1) is at least 18 years of age; and (2) applies for federal, state, or local public benefits administered by the agency or political subdivision. Requires a state agency or a political subdivision to: (1) verify the lawful presence of the person by requiring the person to execute a verified affidavit stating that the person is a United States citizen or qualified alien lawfully present in the United States; (2) verify the lawful presence of certain individuals through the Systematic Alien Verification of Entitlements (SAVE) program; and (3) report errors and significant delays in the SAVE program. Provides that: (1) a state agency or political subdivision may provide variations of the verification of lawful presence requirements; and (2) a person who makes a false, fictitious, or fraudulent statement of representation in an affidavit verifying lawful presence commits a Class D felony. Requires the attorney general to: (1) investigate complaints that an agency or political subdivision is not complying with the verification requirements; and (2) file an annual report regarding the violations.

Effective: July 1, 2008.

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January 14, 2008, read first time and referred to Committee on Interstate and International Cooperation.

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Introduced

Second Regular Session 115th General Assembly (2008)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2007 Regular Session of the General Assembly.

HOUSE BILL No. 1240

A BILL FOR AN ACT to amend the Indiana Code concerning human services.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 12-7-2-9, AS AMENDED BY P.L.93-2006,
2 SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2008]: Sec. 9. "Agency" means the following:

4 (1) For purposes of IC 12-10-12, the meaning set forth in
5 IC 12-10-12-1.

6 (2) For purposes of IC 12-12.7-2, the meaning set forth in
7 IC 12-12.7-2-1.

8 **(3) For purposes of IC 12-31-1, the meaning set forth in**
9 **IC 12-31-1-1.**

10 SECTION 2. IC 12-7-2-76.6 IS AMENDED TO READ AS
11 FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 76.6. **(a)** "Emergency
12 medical condition", for purposes of IC 12-15-12, has the meaning set
13 forth in IC 12-15-12-0.3.

14 **(b) "Emergency medical condition", for purposes of IC 12-31-1,**
15 **has the meaning set forth in IC 12-31-1-2.**

16 SECTION 3. IC 12-7-2-85.1 IS ADDED TO THE INDIANA CODE
17 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY

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1, 2008]: **Sec. 85.1. "Federal public benefit", for purposes of IC 12-31-1, has the meaning set forth in IC 12-31-1-3.**

SECTION 4. IC 12-7-2-142 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 142. "Political subdivision", for purposes of the following statutes, has the meaning set forth in IC 36-1-2-13:**

(1) IC 12-8.

(2) IC 12-13-4.

(3) IC 12-31-1.

SECTION 5. IC 12-7-2-169.7 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 169.7. "SAVE program", for purposes of IC 12-31-1, has the meaning set forth in IC 12-31-1-4.**

SECTION 6. IC 12-7-2-185.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 185.5. "State or local public benefit", for purposes of IC 12-31-1, has the meaning set forth in IC 12-31-1-5.**

SECTION 7. IC 12-31 IS ADDED TO THE INDIANA CODE AS A NEW ARTICLE TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]:

ARTICLE 31. RESTRICTIONS ON PUBLIC BENEFITS

Chapter 1. Restrictions on Public Benefits to Illegal Aliens

Sec. 1. As used in this chapter, "agency" means any state administration, agency, authority, board, bureau, commission, committee, council, department, division, institution, office, service, or other similar body of state government.

Sec. 2. As used in this chapter, "emergency medical condition" has the meaning set forth in 42 U.S.C. 1396b(v)(3).

Sec. 3. As used in this chapter, "federal public benefit" has the meaning set forth in 8 U.S.C. 1611.

Sec. 4. As used in this chapter, "SAVE program" means the Systematic Alien Verification of Entitlements program operated by the United States Department of Homeland Security or a successor program designated by the United States Department of Homeland Security.

Sec. 5. As used in this chapter, "state or local public benefit" has the meaning set forth in 8 U.S.C. 1621.

Sec. 6. This chapter shall be enforced without regard to race, religion, gender, ethnicity, or national origin.

Sec. 7. Except as provided under section 9 of this chapter or federal law, an agency or a political subdivision may not provide

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1 federal public benefits or state or local public benefits to a person
2 who is not a:

- 3 (1) United States citizen; or
4 (2) qualified alien under the federal Immigration and
5 Nationality Act and lawfully present in the United States.

6 Sec. 8. Except as provided under section 9 of this chapter or
7 federal law, after June 30, 2009, an agency or a political
8 subdivision shall verify, in the manner provided under section 10
9 of this chapter, the lawful presence of each individual in the United
10 States who:

- 11 (1) is at least eighteen (18) years of age; and
12 (2) applies for:

- 13 (A) federal public benefits; or
14 (B) state or local public benefits;

15 that are administered by the agency or political subdivision;
16 before the agency or political subdivision may provide federal
17 public benefits or state or local public benefits to the individual.

18 Sec. 9. An agency or a political subdivision is not required to
19 meet the requirements under sections 7 and 8 of this chapter for
20 any of the following:

- 21 (1) A purpose for which lawful presence in the United States
22 is not required by law, ordinance, or regulation.
23 (2) Assistance for health care items and services that are
24 necessary for the treatment of an emergency medical
25 condition of the person involved and are not related to an
26 organ transplant procedure.
27 (3) Short term, noncash, in-kind emergency disaster relief.
28 (4) Public health assistance for:
29 (A) immunizations with respect to a disease that may be
30 immunized; and
31 (B) testing and treatment of symptoms of communicable
32 diseases regardless of whether symptoms are caused by a
33 communicable disease.
34 (5) Programs, services, or assistance, including soup kitchens,
35 crisis counseling and intervention, and short term shelter,
36 specified by the United States Attorney General in the United
37 States Attorney General's sole and unreviewable discretion
38 after consultation with appropriate federal agencies and
39 departments, that:
40 (A) deliver in-kind services at the community level,
41 including services through public or private nonprofit
42 agencies;

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(B) do not condition the:

(i) provision of assistance;

(ii) amount of assistance provided; or

(iii) cost of assistance provided;

on a recipient's income or resources; and

(C) are necessary for the protection of life or safety.

(6) Prenatal care.

Sec. 10. An agency or a political subdivision shall verify the lawful presence of a person described under section 8 of this chapter by requiring the person to execute a verified affidavit stating that the person is a:

(1) United States citizen; or

(2) qualified alien under the federal Immigration and Nationality Act and lawfully present in the United States.

Sec. 11. (a) If a person executes an affidavit stating that the person is an alien lawfully present in the United States under section 10 of this chapter, an agency or a political subdivision shall verify the lawful presence of the person to determine eligibility for federal public benefits or state or local public benefits through the SAVE program.

(b) An affidavit executed under section 10 of this chapter may be presumed to be proof of lawful presence of a person under this chapter until eligibility is verified under this section.

Sec. 12. An agency or a political subdivision shall report any errors or significant delays by the SAVE program to the:

(1) United States Department of Homeland Security; and

(2) secretary of state.

Sec. 13. An agency or a political subdivision may adopt a variation of the requirements under this chapter to:

(1) improve the efficiency of verifying lawful presence of a person under this chapter;

(2) reduce delay in verifying lawful presence of a person under this chapter; or

(3) provide for adjudication of unique individual circumstances in which the procedures under this chapter would impose unusual hardship on a legal resident of Indiana.

Sec. 14. A person who knowingly or intentionally makes a false, fictitious, or fraudulent statement of representation in an affidavit executed under section 10 of this chapter commits a Class D felony.

Sec. 15. (a) The attorney general shall investigate a complaint filed with the attorney general that an agency or political subdivision is in violation of this chapter.

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1 (b) If after an investigation the attorney general determines that
2 an agency or political subdivision is in violation of this chapter, the
3 attorney general shall:

- 4 (1) compile information regarding each violation; and
5 (2) provide an annual written report with respect to violations
6 of this chapter to the legislative services agency in an
7 electronic format under IC 5-14-6.

8 (c) The attorney general may adopt rules under IC 4-22-2 that
9 the attorney general considers necessary to carry out this section.

10 Sec. 16. An agency may adopt rules and a political subdivision
11 may adopt an ordinance or a resolution to carry out the
12 requirements of this chapter.

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